IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7515 of 2005

Between:

Smt. Uma Rani, W/o. G. Balakrishna,
R/o. H.No. 10/148/10/J2L, Plot No. 521, Ganesh Nagar,
Balanagar, R.R. District.

..... PETITIONER

AND

The Commissioner, Kukatpally Municipality,
Kukatpally, R.R. District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ or direction more particularly one in the nature of mandamus declaring the action of the respondent in issuing impugned notices in Proceedings in CO No. TPS III/118/204-05, Dt. 31-3-2005 directing the petitioner to remove the unauthorized construction or deviation of sanction plan in my residential house bearing Dr.No. H.o. 10/148/10/J2L Plot No. 51 in survey No. 54, 55 and 57 at Ganesh Nagar Balanagar, RR District as illegal, arbitrary, unjust and malafide besides violative of provisions of Municipalities Act, 1965 and A.P. Urban Areas Development Act, 1975 and pass such other order or orders as the Hon'ble Court deems fit and proper under the circumstances of the case.

Counsel for the Petitioner: SMT.D.PRAMADA

Counsel for the Respondent: MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

The Court, at the stage of admission, made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.7515 OF 2005

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ORDER :

This writ petition is filed aggrieved by the order dated 31-03-2005 passed by the respondent-Commissioner, Kukatpally Municipality, Kukatpally, Rangareddy District directing the petitioner to remove the alleged unauthorised constructions made by her in the premises bearing Door No.10/148/10/J2L in Plot No.51 in Sy.Nos.54, 55 and 57 situated at Ganesh Nagar, Balanagar, Rangareddy District, within three days from the date of receipt of the said order.

In the impugned order, it is stated that though the petitioner was served with a showcause notice dated 21-03-2005, she failed to submit any explanation. However, the specific case of the petitioner is that she submitted an explanation explaining that having purchased the house, she has obtained building permission, but could not proceed with the construction and that now she is only carrying out repairs to the existing structures. She also sought for permission to carryout the repairs to the existing building. Having received the same, the respondent-Commissioner by order dated 30-03-2005 informed the petitioner that the documents submitted along with her application were not accompanied with the plan as required and therefore the application is rejected and the documents are returned. The next day the impugned order has been passed under Section 228(3) of Andhra Pradesh Municipalities Act, 1965 and under Sections 42(1) and 43(1) of Andhra Pradesh Urban Areas (Development) Act, 1975, thereby calling upon the petitioner to remove the alleged unauthorised constructions within three days. The grievance of the petitioner is that the respondent failed to consider the circumstances

explained by her in the explanation submitted by her on 29-03-2005 and therefore the same is arbitrary and illegal.

I have heard the learned Counsel for both the parties and perused the material on record.

Having regard to the facts and circumstances of the case and since admittedly the impugned order was passed without taking into consideration the version of the petitioner, I am of the view that the matter requires reconsideration. Since the explanation submitted by the petitioner dated 29-03-2005 does not appear to be with reference to the showcause notice dated 21-03-2005, I also deem it appropriate to afford an opportunity to the petitioner to submit the necessary explanation explaining all the allegations made by the respondent in the showcause notice dated 21-03-2005.

Accordingly, the impugned order dated 31-03-2005 is set aside and the writ petition is disposed of granting leave and liberty to the petitioner to submit necessary explanation to the showcause notice dated 21-03-2005 within a period of two weeks from today. If such explanation is submitted by the petitioner within the time specified above, the respondent shall consider the same and pass appropriate orders in accordance with law and communicate the same to the petitioner. Till such time, no coercive steps shall be taken against the petitioner for removal of the structures in question. No costs.

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06th April, 2005

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To

1) The Commissioner, Kukatpally Municipality,
   Kukatpally, R.R. District.

2) 2 CD copies

3) 1 CC to MR.POLISETTI RADHAKRISHNA (SC FOR MPL)